

IN THE DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT

STATE OF FLORIDA,
Appellant,

v.

ROBERT KRAFT,
Appellee.

Case No. 4D19-1499

L.T. No. 2019MM002346AXXXNB

**SECOND MOTION FOR EXTENSION OF TIME
TO FILE INITIAL BRIEF**

Appellant, the State of Florida, hereby moves the Court for a 15-day extension of time to file the initial brief on appeal in this matter. *See* Fla. R. App. P. 9.300(a). The grounds for the motion are as follows.

1. This is an appeal from a non-final order of the county court for the Fifteenth Judicial Circuit, which suppressed, under the Fourth Amendment, video evidence relevant to pending prostitution charges against Appellee Robert Kraft. The county court certified that its order presents several questions of great public importance.

2. On July 16, 2019, this Court accepted jurisdiction and consolidated *Kraft* with two related appeals, *State v. Freels, et al.*, No. 4D19-1655 and *State v. Zhang, et al.*, No. 4D19-2024.

3. The initial brief is presently due to be filed in this Court on September 16, 2019. To date, the State has taken one unopposed 30-day extension of time. An additional extension of 15 days is necessary for several reasons.

4. First, undersigned counsel is responsible for handling numerous matters in this Court, the Florida Supreme Court, and the United States Supreme Court, along with various other responsibilities related to pending litigation in state and federal court.

5. Second, the records on appeal in each of the three related cases are voluminous. The record in this case, for instance, is roughly 3,500 pages, with the records in the related appeals totaling more than 30,000. Due to the length of the records, undersigned counsel has not yet completed his review of the necessary documents. The Office of the Solicitor General was not counsel to the State in the trial proceedings, making a thorough review of these documents all the more imperative.

6. Third, the legal issues presented here are important and warrant the fullest possible explication. In the order on review, the county court suppressed video evidence proving that Mr. Kraft, on two occasions, paid a massage worker for oral and manual sex. In the related *Zhang, et al.* case, the Appellees are charged with their own serious violations of Florida criminal law, including deriving support from the proceeds of prostitution, a second-degree felony punishable by up to 15

years in prison. The trial courts’ rulings impact not only this case, but also the power of law enforcement to utilize delayed-notice, non-audio video surveillance—which this Court has called video surveillance a “valuable tool in fighting crime,” *Minotty v. Baudo*, 42 So. 3d 824, 832 (Fla. 4th DCA 2010)—to combat a range of organized criminal enterprises, including human trafficking, racketeering, and narcotics.

7. Fourth, these are issues of first impression in Florida. As several lower court judges have pointed out, there is a “dearth” of Florida case law addressing the legal framework applicable to delayed-notice, non-audio video surveillance, and this Court will be the first state appellate court to resolve the Fourth Amendment questions at play here. Given these circumstances, the State should be permitted to fully develop its position in an initial brief meeting the high professional standards expected by this Court.

8. Though undersigned counsel has prepared a rough draft of the initial brief, senior members of the Office of the Solicitor General have not yet had the opportunity to edit that draft and circulate it to other stakeholders. An extension of just over two weeks will permit this internal review process and allow this Court to resolve these important issues based on thoroughly researched and well-drafted briefing.

9. Counsel for Mr. Kraft, William Burck, has indicated that this extension of time is **opposed**.

10. Mr. Kraft is not in custody pending trial.
11. Undersigned counsel certifies that the purpose of this motion is not for undue delay.

Wherefore, Appellant respectfully requests that this Court extend the time for filing the initial brief to October 1, 2019.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via the e-filing portal on September 16, 2019 to the following:

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